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Union Calendar No. 242

87TH CONGRESS
1ST SESSION

H. R. 5786

[Report No. 673]

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1961

Mr. KEITH introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

JULY 3, 1961

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out the preamble and all after the enacting clause and insert the part printed in italic]

A BILL

To provide for the establishment of Cape Cod National Seashore.

~~Whereas the coastal and shoreline area on Cape Cod, Massachusetts, possesses unique cultural, scenic, historic, scientific, and recreational values; and~~

~~Whereas these values are an important and irreplaceable part of the heritage of the United States; and~~

~~Whereas these values should be preserved and enhanced for the benefit and inspiration of all of the people of the United States of present and future generations; and~~

~~Whereas an adequate and representative portion of Cape Cod should be set aside and developed to assure its unimpaired use and enjoyment for varied cultural, scenic, historic, scientific, and recreational purposes: Now, therefore,~~

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ~~That (a) the area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b), is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").~~

~~(b) The area referred to in subsection (a) is described as follows:~~

~~Beginning at a point in the Atlantic Ocean one-quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;~~

~~thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Cod Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;~~

~~thence northerly, along a line a quarter of a mile~~

offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the sand dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

thence along the northerly right-of-way line of United States Route 6 in a generally easterly direction crossing the Truro Provincetown town line to and continuing in the town of Truro to a point 300 feet northerly from the northerly right-of-way of Highland Road;

thence easterly paralleling the general alinement of Highland Road and 300 feet distant northerly therefrom to a point 300 feet westerly of the westerly right-of-way line of Coast Guard Road;

thence northerly, northeasterly, and easterly paral-

leling the general alinement of Coast Guard Road and 300 feet distant westerly therefrom to a point on the top of the ocean bank;

thence southerly along the top of the ocean bank to a point thereon which is 300 feet distant southerly from the general southerly alinement of Highland Road extended;

thence westerly along a line 300 feet southerly from and paralleling the general alinement of Highland Road to a point 300 feet westerly of the westerly right-of-way line of South Highland Road;

thence northerly and westerly paralleling the general alinement of South Highland and Highland Roads 300 feet distant southerly therefrom to a point on the easterly right-of-way line of said Route 6;

thence turning and running southeasterly by the easterly right-of-way line of Route 6 to a point four-tenths of a mile southeasterly of the southerly right-of-way of Highland Road;

thence easterly two-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alinement of United States Route 6 and generally distant therefrom two-tenths of a mile to a point 300 feet northerly of the northerly right-of-way line of Long Nook Road;

thence running easterly paralleling the general northerly alinement of Long Nook Road and 300 feet distant northerly therefrom to a point on the top of the ocean bank;

thence southerly along the top of the ocean bank to a point which is 300 feet south of the southerly right-of-way line of Long Nook Road;

thence westerly paralleling the general alinement of the southerly right-of-way line of Long Nook Road and 300 feet distant southerly therefrom 4,000 feet to a point;

thence due south crossing Higgins Hollow Road to a point 300 feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general westerly direction paralleling the general southerly alinement of Higgins Hollow Road and 300 feet distant southerly therefrom to a point two-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly direction paralleling the general alinement of said Route 6 and distant easterly therefrom two-tenths of a mile to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a general easterly direction paralleling

~~the general alinement of North Pamet Road and 300 feet distant northerly therefrom to a point on the top of the ocean bank;~~

~~thence southerly along the top of the ocean bank to a point 300 feet south of Pamet Town Landing;~~

~~thence westerly to a point 300 feet east of the easterly right-of-way line of South Pamet Road;~~

~~thence in a southerly and westerly direction paralleling the general alinement of South Pamet Road and 300 feet distant southerly therefrom to a point two-tenths of a mile east of the easterly right-of-way line of said Route 6: (There is included in the foregoing description so much of the marsh bordering Pamet River as lies below three feet above mean high-water line; as shown on United States Geological Survey North Truro quadrangle sheet (1948) and Wellfleet quadrangle sheet (1958) as lies east of said Route 6 said marsh to be included in the park boundaries).~~

~~thence turning and running in a southeasterly direction paralleling the general alinement of said Route 6 and distant easterly therefrom two-tenths of a mile to a point three-tenths of a mile south of South Pamet Road;~~

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay in a general southerly direction to the town line between Truro and Wellfleet;

thence generally easterly along the Truro and Well-

fleet town line to the westerly edge of the marsh of Bound Brook;

thence generally southeasterly, southwesterly, and westerly by the edge of the marsh to the southerly right-of-way line of an unimproved dirt road as shown on said Wellfleet quadrangle sheet;

thence northerly to the southerly right-of-way line of Bound Brook Island Road;

thence westerly by the southerly right-of-way line of Bound Brook Island Road to the town landing;

thence southerly and westerly by the town landing to a point in Cape Cod Bay one quarter of a mile offshore from the mean low-water line;

thence southerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay to a point;

thence turning and running easterly on the prolongation of the northerly right-of-way of Duck Harbor Road;

thence continuing easterly and southwesterly by the northerly right-of-way line of said Duck Harbor Road to the northerly right-of-way line of Chequesset Neck Road;

thence northwesterly, westerly, and southwesterly

by the northerly right-of-way line of Chequesset Neck Road to the town landing;

thence westerly by the town landing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor to a point one quarter of a mile due north of the mean low-water line at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequesset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northerly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road;

thence crossing said marshy stream along said easterly right-of-way line of said medium duty road, and continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road north-

~~westerly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;~~

~~thence following said 20-foot contour line in an easterly direction to Route 6;~~

~~thence northerly by the westerly right-of-way line of said Route 6 to the Wellfleet-Truro town line;~~

~~thence turning and running in an easterly direction by the Truro-Wellfleet town line crossing Route 6 to a point 750 feet westerly from the top of the ocean bank;~~

~~thence a general southerly direction along a line 750 feet westerly from the top of the ocean bank to a point on the northerly right-of-way line of Kinnacum Pond Road;~~

~~thence westerly by the northerly right-of-way line of Kinnacum Pond Road and the northerly right-of-way line of Gull Pond Road to the easterly right-of-way line to a power transmission line;~~

~~thence in a general southerly direction along the easterly right-of-way line of said power transmission line to the northerly right-of-way line of Long Pond Road;~~

~~thence in a general easterly direction along the northerly right-of-way line of Long Pond Road to the westerly right-of-way line of Ocean View Drive;~~

thence southerly along the westerly right-of-way line of Ocean View Drive to the southerly right-of-way line of Cahoon Hollow Road;

thence in a general westerly direction along the southerly right-of-way line of Cahoon Hollow Road to the easterly right-of-way of said power transmission line;

thence in a general southerly, easterly, and southeasterly direction along the easterly right-of-way line of said power transmission line to a point 500 feet north of LeCount Hollow Road (also known as Cook Road);

thence generally northeasterly by a line paralleling the general alinement of LeCount Hollow Road and distant north 500 feet therefrom to a point 500 feet west of the westerly right-of-way line of Ocean View Drive;

thence northerly by a line paralleling the general alinement of Ocean View Drive and distant 500 feet westerly therefrom for a distance of 4,500 feet;

thence running easterly across Ocean View Drive to the top of the ocean bank;

thence generally southerly along the top of the ocean bank to a point 1,000 feet south of LeCount Hollow Road;

thence generally southwesterly by a line paralleling the general alinement of LeCount Hollow Road and distant 1,000 feet southerly therefrom to a point due

south of the intersection of the westerly right-of-way line of Ocean View Drive and LeCount Hollow Road;

thence due north to a point 500 feet south of the southerly right-of-way line of LeCount Hollow Road;

thence generally southwesterly by a line paralleling the general alinement of LeCount Hollow Road and distant 500 feet southerly therefrom to the easterly right-of-way line of said power transmission line;

thence in a general southerly direction along the easterly right-of-way line of said power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northernly boundary of the Eastham town hall property;

thence east by the line of the said town hall property extended to the 10-foot contour line bordering Salt Pond Bay as shown on United States Geological Survey Orleans quadrangle sheet (1946);

thence turning and running in a general southerly, easterly, northeasterly, southerly, and southwesterly direction by the 10-foot contour line to a point due north of the confluence of a small stream approximately one-tenth of a mile beyond Governor Prence Road extended, and Nauset Harbor;

thence southeasterly to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on said Orleans quadrangle sheet;

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwesterly along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to the head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and south-

~~westerly around Pochet Island and thence southwesterly into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwesterly tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;~~

~~thence generally southeasterly in Pleasant Bay along a line passing midway between Sipson Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;~~

~~thence easterly by the Chatham-Orleans town line to the mean low-water line on the westerly side of Nauset Beach;~~

~~thence generally southerly in Pleasant Bay in the town of Chatham along mean low-water line of Pleasant Bay and the westerly shore of Nauset Beach;~~

~~thence northeasterly by the mean low-water line of Nauset Beach to the line of demarcation between inland and international waters as shown on Coast and Geodetic charts numbered 1208 and 270;~~

~~thence due east one-quarter mile; and~~

~~thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and~~

parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

In event water access from Pleasant Bay and/or Nauset Harbor is closed from the ocean the Secretary shall take immediate action to provide an adequate passage from those inland waters to the Atlantic Ocean and maintain such opening thenceforth.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 1 of this Act or which lies within the boundaries of the seashore as described pursuant to section 3 of this Act (both together hereinafter in this Act referred to as "such area"). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 1 of this Act or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred with-

out consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act.

(b) In exercising his authority to acquire property in accordance with the provisions of subsection (a) of this section, the Secretary shall have authority to incur obligations and enter into contracts involving the expenditure of funds authorized by section 10 of this Act for the acquisition of property and his action in doing so shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated.

(c) The Secretary is authorized (1) to use donated and appropriated funds in making acquistions under this Act, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under this Act.

(d) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept

cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(c) As used in this Act the term "fair market value" shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

SEC. 3. (a) As soon as practicable after the date of enactment of this Act and following the acquisition by the Secretary of an acreage in the area described in section 1 of this Act that is in the opinion of the Secretary efficiently administrable to carry out the purposes of this Act, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 1 of this Act. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 1 of this Act; (2) cause a copy of such notice and map to be pub-

lished in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of this Act to be recorded at the registry of deeds for Barnstable County, Massachusetts.

SEC 4. (a) (1) The beneficial owner or owners of improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate purauter vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

~~(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.~~

~~(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.~~

~~(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.~~

~~(6) Any right or rights of use and occupancy retained~~

pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 6 of this Act and in effect on said date: *Provided*, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 6 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value

of the portion of said right which remained on the date of termination.

(b) (1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 1 of this Act for one year following the date of its enactment. —

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 5 of this Act.

(c) The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after the date of enactment of this Act provided such application is made not later than the date of establishment of the seashore.

(d) The term "improved property," wherever used in this Act, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as "dwelling"), together with so-

much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided, however,* That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

(c) Nothing in this section or elsewhere in this Act shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

SEC. 5. (a) As soon after the enactment of this Act as may be practical, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 4 of this Act.—The Secretary may

issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions. The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaw submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 4 of this Act by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

(b) The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, by means of acreage, frontage,

and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) upon or with respect to which there occurs any use, commencing after the date of the publication by the

Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard), the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however,* That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

SEC. 6. The Secretary shall furnish to any interested person requesting the same, a certificate indicating, with respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the provisions of this Act, that such authority has been so suspended and the reasons therefor.

SEC. 7. (a) In order to provide compensation for tax losses sustained by the towns referred to in section 1 of this Act as a result of certain acquisitions by the Secretary of privately owned real estate and improvements thereon pur-

suant to the provisions of this Act, payments in lieu of taxes shall be made to each such town in which such real estate is located, and which has been authorized, under the laws of Massachusetts, to assess taxes upon real estate to the person who is in possession thereof and to assess taxes upon any present interest in real estate to the owner of such interest, in accordance with the following schedule: For the calendar year in which the real estate is acquired in fee simple absolute, an amount which bears the same proportion to the full amount of tax assessed thereon in such year as the number of days remaining insuch year after the date of acquisition bears to the number three hundred and sixty-five. In any case where an amount in excess of the difference between such proportionate amount and such full amount has already been paid to the town by or on behalf of the owner or owners from whom the real estate was so acquired, payment of such excess amount shall be made as reimbursement to such owner or owners out of such proportionate amount and only the balance remaining of such proportionate amount shall be paid to the town. For the two succeeding calendar years there shall be paid on account of such real estate an amount equal to the full amount of tax assessed thereon in the year of acquisition.

(b) No payments in lieu of taxes shall be made on account of real estate and improvements thereon in which

the Secretary has ever acquired less than a fee simple absolute under this Act.

(c) As soon as practicable after real estate taxes have been assessed by such towns in each calendar year, the Secretary shall compute and certify the amount of payments in lieu of taxes due to each of such towns, and such amounts shall be paid to the respective towns by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated.

(d) The provisions of this section shall not apply to any property acquired by the Secretary after December 31 of the twenty-fifth year following the date of enactment of this Act.

SEC. 8. (a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535); as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496); except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

~~(b) (1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided,* That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further,* That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.~~

~~(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.~~

(c) The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the park in such area and under such regulations as he may prescribe. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave the regulation of the taking of shellfish to the towns referred to in section 1 of this Act.

SEC. 9. (a) There is hereby established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the Commission).

(b) The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in the first section of this Act, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore, and shall consult with the members with

respect to carrying out the provisions of sections 4 and 5 of this Act.

(g) No permit for the commercial or industrial use of property located within the seashore shall be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore, without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

(h) (1) Any member of the Advisory Commission appointed under this Act shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99) except as otherwise specified in subsection (2) of this section.

(2) The exemption granted by subsection (1) of this section shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or,

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by

~~any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.~~

~~SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; except that no more than $16,000,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of this Act.~~

~~SEC. 11. If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.~~

That (a) the area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b), is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

(b) The area referred to in subsection (a) is described as follows:

Beginning at a point in the Atlantic Ocean one-

quarter of a mile due west of the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown, Massachusetts;

thence from the point of beginning along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean, Cape Cod Bay, and Provincetown Harbor in generally southerly, easterly, and northerly directions rounding Long Point and then southwesterly to a point a quarter of a mile offshore of the mean low-water line on the harbor side of the dike depicted on the United States Geological Survey Provincetown quadrangle sheet (1949) crossing an arm of the Provincetown Harbor;

thence northerly, along a line a quarter of a mile offshore of and parallel to the low-water line at the dike to a point easterly of the point of intersection of the said dike with the boundary of the Province Lands Reservation as depicted on the said Provincetown quadrangle sheet;

thence westerly to the said point of intersection of the dike and the Province Lands Reservation boundary;

thence along the boundaries of the Province Lands Reservation northwesterly, northeasterly, northerly, and easterly to the easternmost corner of the reservation being near United States Route 6;

thence leaving the said easternmost corner along an extension of the southerly reservation boundary line easterly to the northerly right-of-way line of United States Route 6;

thence along the northerly right-of-way line of United States Route 6 in a general easterly direction crossing the Truro-Provincetown line and continuing in the town of Truro in a generally southeasterly direction to a point four-tenths of a mile southeasterly of the southerly right-of-way line of Highland Road;

thence easterly five-tenths of a mile to a point;

thence turning and running in a southeasterly direction paralleling the general alinement of United States Route 6 and generally distant therefrom five-tenths of a mile to a point approximately 700 feet northwesterly of Long Nook Road;

thence southwesterly along a ridge generally paralleling the alinement of Long Nook Road and distant approximately 700 feet therefrom to a point two-tenths of a mile northeasterly of the northerly right-of-way line of United States Route 6;

thence southeasterly paralleling the general alinement of United States Route 6 and generally distant two-tenths of a mile northeasterly thereof to a point 300

feet south of the southerly right-of-way line of Higgins Hollow Road;

thence in a general easterly direction paralleling the southerly alinement of Higgins Hollow Road and 300 feet distant southerly therefrom to a point five-tenths of a mile east of the easterly right-of-way line of said Route 6;

thence turning and running in a southeasterly and southerly direction paralleling the general alinement of United States Route 6 and distant five-tenths of a mile easterly therefrom to a point 300 feet north of the northerly right-of-way line of North Pamet Road;

thence in a generally southwesterly direction paralleling the general alinement of North Pamet Road and generally distant 300 feet northerly therefrom to a point approximately two-tenths of a mile east of the easterly right-of-way line of United States Route 6;

thence in a southerly direction paralleling the alinement of United States Route 6 and generally distant two-tenths of a mile easterly therefrom to a point three-tenths of a mile south of South Pamet Road;

thence west to the intersection of Old County Road and Mill Pond Road;

thence following the easterly right-of-way line of

Old County Road southward to a point opposite the southerly right-of-way line of Ryder Beach Road at its intersection with Old County Road;

thence eastward to a point 300 feet east of the easterly right-of-way line of said Old County Road;

thence in a southerly direction paralleling Old County Road at a distance of 300 feet to the east of the easterly right-of-way line of said road to a point 600 feet south of the southerly right-of-way line of Prince Valley Road;

thence in a generally westerly direction, crossing Old County Road and the New York, New Haven, and Hartford Railroad right-of-way to the southern extremity of the town landing and beach in the Ryder Beach area, and continuing to a point in Cape Cod Bay a quarter of a mile offshore from the mean low-water line of Cape Cod Bay;

thence turning and running along a line a quarter of a mile offshore of and parallel to the mean low-water line of Cape Cod Bay in a general southerly and easterly direction rounding Jeremy Point and thence in a general northerly direction along a line a quarter of a mile offshore of and parallel to the mean low-water line on the westerly side of Wellfleet Harbor, to a point one quarter of a mile due north of the mean low-water line

at the eastern tip of Great Island as depicted on the United States Geological Survey Wellfleet quadrangle sheet (1958);

thence north to the mean high-water line on the north shore of the Herring River estuary in the vicinity of its confluence with Wellfleet Harbor;

thence following the mean high-water line southwesterly, northwesterly, and northeasterly to the easterly right-of-way line of Chequesset Neck Road at its crossing of Herring River;

thence following the course of Herring River along the 20-foot contour line of the southeasterly shore thereof to a point near Mill Creek;

thence crossing Mill Creek in a northeasterly direction to the 20-foot contour level near to and northeast of the confluence of Mill Creek and Herring River;

thence following generally northerly and easterly along the easterly edge of the Herring River marshes on the 20-foot contour to a point north of which the easterly right-of-way line of a medium duty road, as depicted on said Wellfleet quadrangle sheet, crosses northward across a marshy stream near the juncture of said medium duty road with Bound Brook Island Road;

thence crossing said marshy stream along said easterly right-of-way line of said medium duty road, and

continuing in a northerly direction to the 20-foot contour level on the north side of said marshy stream;

thence following the 20-foot contour line westward approximately 1,000 feet to its intersection with an unimproved dirt road, as depicted on said Wellfleet quadrangle sheet, leading from a point near the juncture of Bound Brook Island Road and the said medium duty road;

thence following said unimproved dirt road northwesterly for approximately 1,600 feet to the 20-foot contour line bordering the southerly edge of the Herring River marshes;

thence following said 20-foot contour line in an easterly direction to Route 6;

thence crossing Route 6 and continuing to a point on the easterly right-of-way line of a power transmission line as depicted on said Wellfleet quadrangle sheet;

thence in a general southerly direction along the easterly right-of-way line of said power transmission line to the northerly right-of-way line of Long Pond Road;

thence in a general easterly direction along the northerly right-of-way line of Long Pond Road to the line commonly known as the "Head of the Mile Lots" line, which line is approximately 3,200 feet westerly of the Atlantic Ocean;

thence southerly along the "Head of the Mile Lots" line to the southerly right-of-way line to Cahoon Hollow Road;

thence in a general westerly direction along the southerly right-of-way line of Cahoon Hollow Road to the easterly right-of-way line of said power transmission line;

thence in a general southerly, easterly, southeasterly, and again southerly direction along the said easterly right-of-way line of a power transmission line to the Eastham-Wellfleet town line;

thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road;

thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road;

thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road;

thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road;

thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road;

thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road;

thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of United States Route 6;

thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham town hall property;

thence easterly to a point one-tenth of a mile from United States Route 6;

thence turning and running in a generally southerly direction paralleling the general alinement of United States Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Prence Road extended;

thence southeasterly along the said stream to the Orleans-Eastham town line;

thence along the Orleans-Eastham town line to the southerly tip of Stony Island;

thence generally southeasterly in the town of Orleans by Nauset Harbor Channel to a point due north of the northerly tip of Nauset Heights as depicted on United States Geological Survey Orleans quadrangle sheet (1946);

thence due south to the 20-foot contour line in Nauset Heights as delineated on the said Orleans quadrangle sheet;

thence generally southerly along the said 20-foot contour to a point about one-tenth of a mile northerly of Beach Road;

thence southwesterly along a line intersecting Beach Road at a point two-tenths of a mile easterly of the so-called Nauset Road leading northerly to Nauset Heights;

thence southerly to the head of a tributary to Little Pleasant Bay at the northerly tip of Pochet Neck as depicted on the said Orleans quadrangle sheet;

thence generally southerly along the thread of channel of the said tributary passing westerly and southwesterly around Pochet Island and thence southwesterly

into Little Pleasant Bay passing to westerly of the northerly tip of Sampson Island, the westerly tip of Money Head, and the southwesterly tip of Hog Island following in general the centerline of Little Pleasant Bay to Pleasant Bay;

thence generally southeasterly in Pleasant Bay along a line passing midway between Sipson Island and Nauset Beach to a point on the Chatham-Orleans town line one-quarter of a mile westerly of the mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach;

thence generally southerly in Pleasant Bay in the town of Chatham along a line a quarter of a mile offshore of and parallel to the said mean low-water line of Pleasant Bay on the westerly shore of Nauset Beach to a point a quarter of a mile south of the mean low-water line of the southern tip of Nauset Beach;

thence easterly rounding the southern tip of Nauset Beach along a line a quarter of a mile offshore of and parallel thereto;

thence generally northerly and northwesterly, and westerly along a line a quarter of a mile offshore of and parallel to the mean low-water line of the Atlantic Ocean on the easterly shore of Nauset Beach and on to the outer cape to the point of beginning.

Notwithstanding the foregoing description of the Cape Cod National Seashore, there is excluded from said seashore the area within the town of Wellfleet, being a portion of Griffin Island, which is bounded and described as follows:

Beginning at a point on the northerly side line of Duck Harbor Road distant 500 feet easterly from the mean high-water line of Cape Cod Bay;

thence running easterly and southwesterly by the northerly and easterly right-of-way line of Duck Harbor Road to the northerly right-of-way line of Chequesset Neck Road;

thence northwesterly, westerly and southwesterly by the northerly right-of-way line of Chequesset Neck Road to a point distant 500 feet easterly from the mean high-waterline of Cape Cod Bay; and

thence northerly by a line 500 feet distant easterly from and parallel to the mean high-waterline of Cape Cod Bay to the point of beginning.

In event water access from Pleasant Bay and/or Nauset Harbor is closed from the ocean the Secretary shall take immediate action to provide an adequate passage from those inland waters to the Atlantic Ocean and maintain such opening thenceforth.

SEC. 2. (a) The Secretary of the Interior (hereinafter

referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and others property, and improvements thereon and any interest therein, within the area which is described in section 1 of this Act or which lies within the boundaries of the seashore as described pursuant to section 3 of this Act (both together hereinafter in this Act referred to as "such area"). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 1 of this Act, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act.

(b) The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under this Act, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under this Act.

(c) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Fed-

eral property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: Provided, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of this Act within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

(d) As used in this Act the term "fair market value" shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

SEC. 3. (a) As soon as practicable after the date of enactment of this Act and following the acquisition by the Secretary of an acreage in the area described in section 1 of this Act that is in the opinion of the Secretary efficiently administrable to carry out the purposes of this Act, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Such notice referred to in subsection (a) of this

section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 1 of this Act. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 1 of this Act; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of this Act to be recorded at the registry of deeds for Barnstable County, Massachusetts.

SEC. 4. (a)(1) The beneficial owner or owners of improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an

estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur auter vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of

twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner

opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 5 of this Act and in effect on said date: Provided, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 5 which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

(b)(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 1 of this Act for one year following the date of its enactment.

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 5 of this Act.

(c) The Secretary's authority to acquire property by condemnation shall be suspended with respect to any par-

ticular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after the date of enactment of this Act provided such application is made not later than the date of establishment of the seashore.

(d) The term "improved property," wherever used in this Act, shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: Provided, however, That the Secretary may exclude from the land so designated any beach or waters, together with so

much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

(e) Nothing in this section or elsewhere in this Act shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

SEC. 5. (a) As soon after the enactment of this Act as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 4 of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 1 of this Act at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due

account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaws submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 4 of this Act by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

(b) The standards specified in such regulations and amended regulations for approval of any zoning bylaw or

zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")—

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard),

the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: Provided, however, That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

SEC. 6. The Secretary shall furnish to any party in interest requesting the same, a certificate indicating, with

respect to any property located within the seashore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with the provisions of this Act, that such authority has been so suspended and the reasons therefor.

SEC. 7. (a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall be administered by the Secretary, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496); except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

(b)(1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: Provided, That the Secretary may provide for the public en-

joyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: Provided further, That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

(c) The Secretary may permit hunting and fishing, including shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter

into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 1 of this Act.

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.

SEC. 8. (a) There is hereby established a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of ten members each appointed for a term of two years by the Secretary as follows:

(1) Six members to be appointed from recommendations made by each of the boards of selectmen of the towns referred to in the first section of this Act, one member from the recommendations made by each such board;

(2) One member to be appointed from recommendations of the county commissioners of Barnstable County, Commonwealth of Massachusetts;

(3) Two members to be appointed from recommendations of the Governor of the Commonwealth of Massachusetts; and

(4) One member to be designated by the Secretary.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of Cape Cod National Seashore, and shall consult with the members with respect to carrying out the provisions of sections 4 and 5 of this Act.

(g) No permit for the commercial or industrial use of property located within the seashore shall be issued by the Secretary, nor shall any public use area for recreational activity be established by the Secretary within the seashore,

without the advice of the Commission, if such advice is submitted within a reasonable time after it is sought.

(h)(1) Any member of the Advisory Commission appointed under this Act shall be exempted, with respect to such appointment, from the operation of sections 281, 283, 284, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99) except as otherwise specified in subsection (2) of this section.

(2) The exemption granted by subsection (1) of this section shall not extend—

(i) to the receipt or payment of salary in connection with the appointee's Government service from any sources other than the private employer of the appointee at the time of his appointment; or

(ii) during the period of such appointment, and the further period of two years after the termination thereof, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter concerning which the appointee had any responsibility arising out of his appointment during the period of such appointment.

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of

this Act; except that no more than $16,000,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of this Act.

SEC. 10. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Union Calendar No. 242

87TH CONGRESS
1ST SESSION

H. R. 5786

[Report No. 673]

A BILL

To provide for the establishment of Cape Cod National Seashore.

By Mr. KEITH

MARCH 21, 1961

Referred to the Committee on Interior and Insular Affairs

JULY 3, 1961

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT ESTABLISHING AN OCEAN SANCTUARY ADJACENT TO THE CAPE COD NATIONAL SEASHORE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 132A of the General Laws is hereby amended by adding the following section: —

Section 13. There is hereby established adjacent to the Cape Cod National Seashore a protected ocean area to be known as the Cape Cod Ocean Sanctuary.

Said Cape Cod Ocean Sanctuary is described as follows: — Beginning at a point in the Atlantic Ocean three miles due west from the mean low-water line of the Atlantic Ocean on Cape Cod at the westernmost extremity of Race Point, Provincetown; thence swinging in a clockwise arc along a line three miles offshore and parallel to the mean low-water line of the northerly extremity of Cape Cod to the northernmost point of said arc; thence running due east to the limit of state jurisdiction, meaning not less than three and not more than twelve miles, regardless of any more distant limit that may subsequently be established by federal statute or by litigation; thence in a southerly and southeasterly direction, at the above limit of state jurisdiction, to a point on a line running easterly from a point three miles due south of the mean low-water line at Monomoy Point; thence westerly on said line to the point three miles due south of said low-water line at Monomoy Point; thence running northerly to Monomoy Point; thence along the mean low-water line of Monomoy Island and Morris Island to the seaward boundary of the Cape Cod National Seashore, as established by act of Congress (1961, P.L. 87-126); thence northerly and finally westerly along said seaward boundary of said Cape Cod National Seashore to a point on a line running westerly from the mean low-water line at

the westernmost extremity of Race Point; thence due west on said line to the point of beginning. "Miles", as used in this section, mean nautical miles.

The Cape Cod Ocean Sanctuary shall be under the care and control of the department of natural resources and shall be protected from any exploitation, development of activity that would seriously alter or otherwise endanger the ecology or the appearance of the ocean, the seabed or subsoil thereof, or the adjacent Cape Cod National Seashore.

The following activities shall be prohibited in the Ocean Sanctuary: — the building of any structure on the seabed or under the subsoil; the removal of any sand, gravel or other minerals, except as hereinafter provided; drilling for subsoil minerals, gases or oils; commercial advertising; or the dumping of any commercial or industrial waste.

This section is not intended to prohibit the laying of cables approved by the department of public utilities, or channel and shore protection projects, navigation aids, or improvements approved by appropriate federal and state agencies.

This section shall not prohibit the extraction of sand and gravel from the seabed and subsoil of the Sanctuary for the purposes of shore protection and beach restoration only, provided that such shore protection or beach restoration is limited to public beaches adjacent to the Sanctuary, and provided further that such project is approved by the department of natural resources.

Nothing in this section shall interfere with the harvesting of fish and shellfish in all forms, so long as the department of natural resources is satisified that such activities are carried on in accordance with sound conservation practices, nor with the issuance of joint permits by the department of natural resources and the department of public works for temporary educational and scientific purposes.

The attorney general shall take such action as may be necessary from time to time to enforce the provisions of this section. The superior court shall have jurisdiction in court to support the purposes of this section.